

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.D
Mtg. Date April 7, 2015
Dept. Fire

Item Title: Mass Decontamination Unit Agreement

Staff Contact: Daryn Drum, Division Chief

Recommendation:

Adopt a resolution (**Attachment B**) approving an agreement with the San Diego Unified Disaster Council for temporary transfer of one mass decontamination unit (MDU) to be housed at the fire station and staffed by Fire Department personnel during a disaster or regional event.

Item Summary:

In 2007, The Unified Disaster Council (UDC) purchased four 26-foot box vans and equipped them with decontamination equipment and supplies for regional use in the event of a disaster. The MDUs are housed and staffed by various fire agencies throughout the County and rotated periodically as needed. Staff recommends that the City enter into an agreement with the UDC that allows Heartland Fire & Rescue-Lemon Grove to provide the staffing and to house one of the MDUs. Costs associated with staffing in the event of a disaster will be reimbursed through the California Disaster and Civil Defense Master Mutual Aid Agreement. Additionally, maintenance and repairs to the vehicle will be performed by County personnel at the expense of the UDC.

Fiscal Impact:

None.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 1.D

Mtg. Date April 7, 2015

Item Title: Mass Decontamination Unit Agreement

Staff Contact: Daryn Drum, Division Chief

Discussion:

The City of Lemon Grove is a member of the Unified San Diego County Emergency Services Organization, also known as the Unified Disaster Council (UDC), which was formed by a Joint Powers Agreement (last amended in 2005). The Joint Powers Agreement recognizes that the County and incorporated cities of San Diego desire to provide a unified emergency service organization to coordinate and facilitate a regional plan for the preservation of life, safety and property in the event of a multi-jurisdictional emergency or disaster.

In 2007, the UDC purchased four 26-foot box vans (MDU) with mass decontamination supplies and equipment to be used to decontaminate large numbers of citizens and first responders in the event of a regional emergency that requires decontamination of chemical, biological, radiological, nuclear or electronic material. The MDUs are housed and staffed by various fire agencies throughout the County and rotated periodically as needed. As these MDUs are rotated through the County, each member agency is expected to take a turn hosting and staffing one of the vehicles. In order to participate in the program, it is necessary to enter into an agreement with the UDC. The agreement (included in **Attachment B**) temporarily transfers possession of the MDU to the City. Additionally, included in the agreement are funding provisions for personnel training, maintenance and repair of the vehicle and equipment, supply replacement and personnel cost reimbursements.

Conclusion:

Staff recommends that the City Council adopt the resolution (**Attachment B**) approving an agreement between the City and the UDC.

Attachment B

RESOLUTION NO. 2015-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA APPROVING AN AGREEMENT FOR TEMPORARY TRANSFER OF A MASS DECONTAMINATION UNIT TO THE CITY

WHEREAS, the City of Lemon Grove is a member of the Unified San Diego Emergency Services Organization, also known as The Unified Disaster Council (UDC); and

WHEREAS, the City of Lemon Grove has an interest in the coordination and facilitation of regional plans to provide for the safety of its citizens, protect life and preserve property in the city and throughout the region; and

WHEREAS, in 2007, the Unified Disaster Council purchased four box vans to serve as mass decontamination units; and

WHEREAS, cities in San Diego County house and staff the mass decontamination units on a rotational basis; and

WHEREAS, cities are reimbursed for costs associated with housing and staffing the mass decontamination units; and

WHEREAS, it is the City's intent to house and staff the mass decontamination unit on a temporary basis.]

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California:

1. Approve an Agreement (Exhibit 1) with the Unified San Diego Emergency Services Organization,
2. Authorize the City Manager to execute said Agreement.]

/////

/////

Attachment B

EXHIBIT 1

UNIFIED SAN DIEGO COUNTY EMERGENCY SERVICES ORGANIZATION AGREEMENT FOR TEMPORARY TRANSFER OF MASS DECONTAMINATION UNIT

This Agreement is entered into this ____ day of (Month), 2015, by and between the San Diego Unified Disaster Council ("UDC") and the City of Lemon Grove

RECITALS

Whereas, the UDC is a joint powers authority formed pursuant to the Fifth Amended Emergency Services Agreement; Government Code sections 6500, 8605 and 8610;

Whereas, TRANSFEREE is a member of the UDC;

Whereas, the UDC has acquired the mass decontamination apparatus ("MDU") consisting of a truck and equipment as more fully described below and in Appendix A to this Agreement;

Whereas, the UDC has determined that the emergency service needs of the County of San Diego Operational Area would be best served by the positioning of the MDU within the geographic boundaries of TRANSFEREE;

Whereas, TRANSFEREE has determined that its interests would be served by having the MDU positioned within its boundaries;

IT IS HEREBY MUTUALLY AGREED, for good and valuable consideration, between the parties hereto as follows:

1. Transfer of Possession and Use of The MDU

a. The UDC hereby transfers possession only, but not ownership, to TRANSFEREE and TRANSFEREE hereby accepts possession from UDC of the MDU listed in Appendix A, which is incorporated into this Agreement, for the period commencing April 19, 2007, for the following all-hazard, homeland security, civil defense and disaster preparedness or response purposes, including: Mass decontamination incidents threatening human life, properties vital to homeland security or the continuity of essential government or private sector services and operations; mutual aid support to other jurisdictions or agencies; parades and displays; training of regular and auxiliary firefighters and other first responders; temporary standby for TRANSFEREE's regular apparatus while out of service for repairs; and TRANSFEREE emergency preparedness and response use provided that use does not significantly impact the availability of MDU to perform the missions noted in this agreement. Other deployment activities performed may be at the request of the UDC provided in conjunction with, or in preparation for, a proclamation of local emergency and/or Governor and/or Presidential declaration of disaster or emergency, or as a pre-deployed resource in a standby status for use during a designated special event.

b. Unified San Diego County Emergency Services Organization will title the vehicle to show the Unified San Diego County Emergency Services Organization as the lessor and TRANSFEREE as registered owner/lessee. Vehicle registration will show the Unified San Diego County Emergency Services Organization as legal owner/lessor and TRANSFEREE jurisdiction as lessee. County Office of Emergency Services (OES) on behalf of the UDC, supported by County Fleet Management, will coordinate these and related actions such as the preparation of any leasing documents to show the responsibilities of the parties during the lease

Attachment B

duration, and will assume any transaction costs associated with these actions. Once the lease agreement is terminated, County OES will coordinate the return transfer.

c. Summary Description of MDU: Mobile mass decontamination treatment supply cache mounted in truck.

Cache Truck Description: Freightliner 2007 Model M2106 (22/26) Foot Truck

Cache Truck Designation: San Diego Regional Response Vehicle (Number)

Cache Truck Identification number: (from Vehicle Registration/Vehicle)

Cache Truck License number: (to be provided by County Fleet Maintenance)

Value of Truck, Emergency Lighting and Sirens: (\$92,700.64/\$92,216.84)

Value of Decontamination Cache Equipment and Supplies: approx. \$282,904.43

Value of Truck Communications Equipment: approx. \$22,027.62

Value of Truck Branding: (\$1067.34/\$1126.34)

Acquisition Cost: approx. \$398,404.43.

d. Equipment inventories as listed in Appendix A, may be changed during the term of this agreement, utilizing property accountability procedures established or approved by the UDC, through written agreement of the UDC and TRANSFEREE.

2. Housing, Maintenance, Repair and Replacement.

a. During the term of this agreement, TRANSFEREE agrees to adequately house, staff, operate, maintain and repair the MDU and equipment (hereinafter collectively referred to as "the MDU" except where it is desired to refer to the equipment alone, in which case the term "equipment" is used) at its sole cost and expense, save as otherwise expressly provided in this Agreement. The MDU shall be housed on property of the TRANSFEREE under conditions similar to those afforded TRANSFEREE'S other emergency response vehicles and in a manner to provide reasonable protection against sabotage, theft or malicious damage. The MDU shall be maintained in such condition that it is available for immediate emergency use (available to respond within 20 minutes of direction to do so), and at the same general standard as other emergency apparatus operated by County. Maintenance (including preventive maintenance) shall include but not be limited to: preventive maintenance; standard vehicle part and system maintenance; federal, State and local inspections and requirements; motor tune-ups; transmission, differential and all running gears inspections and replenishment; brake and exhaust systems inspection and maintenance; cooling devices including radiator maintenance; lift-gate maintenance; care of: equipment, truck, batteries, tires, belts, hoses, appliances, fluids and lubrication (but not fuel), communications, lighting and alarm systems, branding, general cleaning and polishing, and periodic testing. Maintenance is to be performed to manufacturer's specifications and intervals to ensure warranty compliance. Whether incurred through normal wear and tear, breakage or accident, deviations from specifications or mission readiness will be repaired expeditiously. TRANSFEREE has the option of performing all maintenance, repairs and replacements using own fleet procedures and facilities, or coordinating with the County to enter the vehicles into the County Fleet Maintenance Information System (FMIS) and ensuring vehicle maintenance and repair is kept current. If TRANSFEREE chooses to use County maintenance facilities TRANSFEREE will coordinate that action with San Diego County Fleet Management via the San Diego County Office of Emergency Services (OES). If TRANSFEREE chooses to use own facilities and procedures for maintenance and repair, TRANSFEREE will provide semi-annual maintenance history updates to County Fleet Management, and again upon termination of this agreement. Guidance on Standards of Maintenance can be provided

Attachment B

by County Fleet Maintenance. Issues regarding maintenance standards will be resolved by the County Office of Emergency Services. TRANSFEREE is encouraged to use the County Fleet Maintenance Fuel System when doing so is practical and cost effective.

b. Maintenance, repairs and replacements, or coordination with County Fleet Maintenance for the same, shall normally be the responsibility of TRANSFEREE .

c. Funding to perform maintenance and repair is discussed in paragraph 11, Allowances, of this Agreement. If maintenance and repair costs exceed the annual allowance TRANSFEREE may request reimbursement for excess costs from the UDC. Written requests for reimbursement may be submitted to the UDC, via County OES, on a semi-annual basis. UDC review of submitted requests will be identified in the UDC Meeting Agenda prepared by County OES. Upon UDC approval of the request, County OES will oversee the processing of the reimbursement. A UDC-identified funding source should be used for above stated maintenance, repairs and replacements. The UDC will develop a Joint Powers Agreement (JPA) to establish governance, operations, maintenance and long term sustainment of regional vehicles and any other regional items.

d. If and to the extent that the need for repair is the result of misuse and/or negligence on the part of the TRANSFEREE in the maintenance or use of the MDU, TRANSFEREE shall bear the cost of each such item of repair or replacement.

e. Subject to paragraph 2.d., above, repair or replacement of the MDU shall be the responsibility of UDC when the MDU is consumed, lost, stolen, damaged or destroyed

(i) during mutual aid operations when UDC has dispatched or directed the dispatch of the MDU through the Operational Area Fire and Rescue Coordinator,

(ii) during TRANSFEREE initiated emergency preparedness or response operations where Operational Area Fire and Rescue Coordinator and Zone Coordinator notification has been made, or when

(iii) the UDC has reassigned said apparatus pursuant to the provisions of this Agreement.

f. TRANSFEREE agrees that it will assume responsibility for the repair or replacement of equipment that has been consumed, lost, stolen, damaged or destroyed in operations other than referred to in paragraph 2 e above.

3. Inspection of MDU.

TRANSFEREE agrees that representatives of the UDC and other authorized UDC personnel may inspect the MDU during normal working hours with reasonable notification to the TRANSFEREE.

4. Staffing.

a. Reasonable and sustained training shall be carried on so that Driver/Operator trained and other qualified personnel ("Crew") shall be available to staff and operate the MDU. The TRANSFEREE shall staff the MDU with a minimum of two qualified personnel whenever the MDU is dispatched. At least one must be an emergency medical technician (EMT) qualified and certified in emergency medical procedures and equipment. The other will be an Engineer or driver trained for relevant truck weight and class operations. The MDU may be assigned to incidents outside of the Operational Area. The Crew will have primary responsibility for the set-up, activation and technical operation of the MDU's equipment, and will provide ongoing assistance to incident staff as assigned by the Incident Commander.

Attachment B

b. The TRANSFEREE must ensure crews can safely provide mass decontamination functions to victims or emergency responders in a field environment, while maintaining a defensive posture to prevent additional casualties.

c. Assigned crews shall evaluate the effects of severe weather, the security environment, and other difficult conditions and operate safely during all activations.

d. Inability of the TRANSFEREE to meet the staffing requirements described in this Agreement shall be immediately reported to the Operational Area and Regional Fire and Rescue Coordinator and Zone Coordinator, and County OES for resolution.

5. Terms and Conditions of Use.

a. TRANSFEREE agrees to dispatch MDU covered by this agreement under policies established by:

(1) California Disaster and Civil Defense Master Mutual Aid Agreement;

(2) California Fire Service and Rescue Emergency Mutual Aid System Mutual Aid Plan;

(3) San Diego County Fire Mutual Aid Agreement;

(4) Unified San Diego County Emergency Services Organization Operational Area Emergency Plan Annex B, Fire and Rescue Mutual Aid Operations;

(5) State Emergency Management (SEMS) Resource Ordering and Tracking: A Guide for State and Local Government (as appropriate, and modified for National Incident Management (NIMS) compliance).

b. TRANSFEREE agrees to dispatch equipment to a location outside of San Diego County under the California Fire Service and Rescue Mutual Aid Plan only when approved by the local San Diego County Operational Area Coordinator, the local Zone Coordinator and the TRANSFEREE.

c. When activated for any reason, MDU will comply with all California laws and TRANSFEREE Agency laws and policy regarding use of emergency flashers, lights, sirens and other devices.

d. TRANSFEREE agrees to dispatch the equipment for use in exercises, demonstrations, educational displays and other uses only in accordance with policies and concurrence of either the UDC or TRANSFEREE Agency.

e. All movement of the MDU shall be handled through the official dispatching channels of TRANSFEREE. TRANSFEREE dispatchers will recognize and act on all official requests for movement of the MDU in conformance with Operational Area Emergency Plan Annex B while keeping the Zone Coordinator and Operational Area Fire and Rescue Coordinator informed. TRANSFEREE may initiate MDU response within its local jurisdiction keeping Zone Coordinator and Operational Area Fire and Rescue Coordinator informed.

f. The UDC reserves the right to dispatch, direct the dispatch of, or temporarily reassign the MDU whenever, in the opinion of the UDC, its OES Director, or the Operational Area and Regional Fire and Rescue Coordinator, the MDU is essential to the protection of life and property in another jurisdiction or in the best interest of the UDC.

g. TRANSFEREE agrees to maintain fully stocked levels of all expendable supplies specified for the equipment in the inventory as set forth in Appendix A at all times. Supplies may be expended only during activations for events covered by the purpose and scope of this Agreement except as specified below.

Attachment B

h. Supplies will not be used to resupply TRANSFEREE or other jurisdiction equipment under normal circumstances (i.e., no cannibalization), unless an opportunity presents itself to maximize the efficient use of both UDC and TRANSFEREE supplies, in which case supplies may be exchanged on a one-for-one basis provided shelf life tolerances or other accepted inventory control practice are not violated.

i. Supplies may be expended during exercises, training and other approved uses only to the extent that acceptable replacements are on-hand for immediate replenishment at the conclusion of the approved use.

j. Equipment will be used only for the purposes covered by the Terms and Conditions of Use in this agreement. All use of equipment will be in a manner specified by the manufacturer and approved by law and consistent with Homeland Security Grant Program guidance. Any other use will be deemed as misuse under this Agreement, and the TRANSFEREE will be fully liable for any and all costs associated with such misuse.

k. MDU will not be assigned for "take-home" use.

6. Notifications

The TRANSFEREE will notify the UDC through the Director of the Office of Emergency Services ("OES") (or the OES Duty Officer after hours), the Operational Area and Regional Fire and Rescue Coordinator and Zone Coordinator at the following times:

- a. When MDU is unavailable or not mission ready (NMR) for any reason
- b. When unavailable/NMR MDU is returned to service
- c. When planned preventative maintenance is scheduled
- d. When MDU is dispatched for any reason
- e. When MDU is associated with an injury or involved in an accident
- f. When MDU is the subject of press or media interest
- g. When MDU is no longer needed or can no longer be maintained by the TRANSFEREE.

7. Reimbursable Response.

Pursuant to the California Disaster and Civil Defense Master Mutual Aid Agreement, the mutual aid extended under this Agreement shall be without reimbursement unless otherwise expressly provided for. Reimbursement for mutual aid may be provided pursuant to a governor's disaster proclamation or if conditions should warrant invoking the California Fire Assistance Agreement (Cooperative Agreement for Local Government Fire Suppression Assistance). No party shall be obligated to pay or reimburse any other party for any aid furnished pursuant hereto, except that, if conditions warrant, reimbursement shall be made by the party receiving such aid pursuant to the Fire Mutual Aid Operational Plan for fire fighting supplies actually used in fire suppression by the Agencies furnishing assistance hereunder. There is no other existing provision for mutual aid reimbursement.

8. Temporary Use

Subject to conditions set forth herein, TRANSFEREE shall be permitted to use the MDU on a temporary basis when emergency conditions warrant, or when other regular Mobile Mass Decontamination or Casualty apparatus, or Hazardous Incident Response units are out of service, provided that use supports management and administration, planning, training or exercises to prevent, protect against, respond to, and recover from terrorist attacks, major disasters, and other emergencies. In either case the TRANSFEREE shall immediately notify

Attachment B

the UDC through the OES Director (OES Duty Officer after hours), the Operational Area and Regional Fire and Rescue Coordinator and Zone Coordinator.

9. Report of Accidents.

TRANSFEE shall immediately notify UDC via County OES of any and all accidents involving the MDU. It shall be the responsibility of TRANSFEE to fill out a TRANSFEE agency "Report of Automobile Accident," and file the report with County OES. The TRANSFEE shall retain a copy of this report and the original copy shall be forwarded to the UDC via County OES.

10. Insurance Protection

a. Within 10 working days of inception of the Agreement, TRANSFEE shall submit to County OES on behalf of the UDC certificates of insurance and appropriate separate endorsements or evidence of self-insurance, evidencing that the TRANSFEE has obtained insurance coverage for the period of the Agreement, in the following forms of coverage and minimum amounts specified from insurance carriers with a Best's Rating of not less than A-, VII. County OES may coordinate extension approval for TRANSFEEES seeking third party insurance, provided any change in risk or liability during the extension is approved by interested parties.

1. Listing the TRANSFEE as lessee on the title and registration establishes an insurable interest. It is expected that TRANSFEE will be able to insure the vehicles without the specific transfer of ownership. If the TRANSFEE jurisdiction is self-insured, the TRANSFEE can assume the liability of the vehicles they do not own but use. If the TRANSFEE jurisdiction is not self-insured and has a third party insurer, the TRANSFEE will check with their insurance carrier to inquire about a non-owner insurance policy. Amounts and extent of coverage for these policies vary. A determination on whether coverage is workable will be done on a case by case basis. If acceptable coverage cannot be obtained, then the UDC will 'convey' the vehicle so that the TRANSFEE jurisdiction is a registered owner and maintain itself as a lienholder (a/k/a lease). Any such 'conveyances' done on behalf of the UDC, will be done by County OES through County Purchasing and Contracting.

2. A claims made policy of Commercial General Liability insurance insuring TRANSFEE against liability for bodily injury, personal injury or property damage arising out of or in connection with the TRANSFEE's performance of work or service under this agreement of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate. The UDC shall be added as Additional Insured by separate endorsement to the policy.

3. Statutory Workers' Compensation, as required by State of California and Employer's Liability at \$1,000,000 each accident for bodily injury or disease.

4. Comprehensive Automobile Liability covering all owned, non-owned and hired vehicles for bodily injury and property damage of not less than \$2,000,000 each accident. Coverage shall include Additional Insured clause to UDC and registered owner of described vehicle.

5. Automobile Physical Damage providing ACV Comprehensive and Collision on described vehicle, maximum deductible \$5,000 per occurrence. Coverage shall include Loss Payable clause to UDC and registered owner of described vehicle.

6. Certificates of insurance provided by TRANSFEE must evidence that the insurer providing the policy will give UDC 30 days' written notice, at the address shown in the section of the Agreement entitled "Notices," in advance of any cancellation, lapse, reduction or other adverse change respecting such insurance.

Attachment B

b. The UDC shall retain the right to review the coverage, form and amount of insurance required herein and may require TRANSFEREE to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required. UDC requirements shall be reasonable. UDC retains the right to demand a certified copy of any insurance policy required herein after 15 days notice.

c. TRANSFEREE may fulfill some or all of the insurance requirements contained in this Agreement under a plan of self-insurance. TRANSFEREE's utilization of self-insurance shall not in any way limit liabilities assumed by TRANSFEREE under the Agreement. Evidence of self-insurance shall be provided to UDC by Statement of Coverage or other evidence.

11. Allowances

An annual allowance (not to exceed 10% of the acquisition cost identified in paragraph 1.c. of this Agreement) will be provided to the TRANSFEREE in the form of reimbursements from a UDC-identified funding source to pay for the costs of replenishment of expendable supplies, maintenance outside of warranties, and replacement of other equipment provided as part of the original equipment that becomes inoperable through fair wear and tear. The TRANSFEREE agrees to incur other expenses. The UDC will develop a Joint Powers Agreement (JPA) to establish governance, operations, maintenance and long term sustainment of regional vehicles and any other regional items. All expenses incurred as a result of unauthorized use or abuse of the equipment are the sole responsibility of the TRANSFEREE. If TRANSFEREE chooses to use County maintenance facilities TRANSFEREE portion of maintenance, repair and replacement allowance will be reallocated to County Fleet Management.

12. Training

Any authorized cost incurred by the TRANSFEREE while performing training on behalf of the UDC to other agencies shall be reimbursable. Authorized costs typically include Overtime, Backfill and training delivery costs. If training costs when combined with maintenance and repair costs exceed the annual allowance TRANSFEREE may request reimbursement for excess costs from the UDC per the process identified in paragraph 2.c. of this Agreement.

13. Unauthorized Use of The MDU.

Use of the MDU other than as specified in this Agreement will be considered a breach of this agreement.

14. Use of Radio Equipment.

a. UDC will furnish, at UDC'S sole cost, radio equipment installed in the MDU to be operated in accordance with the San Diego Urban Area Tactical Interoperable Communications (TIC) Plan. Radios will be programmed per the Metropolitan Medical Strike Team (MMST) Fleetmap. If radio maintenance, repair, replacement and licensing costs when combined with training and other MDU maintenance and repair costs exceed the annual allowance, TRANSFEREE may request reimbursement for excess costs from the UDC per the process identified in paragraph 2.c. of this Agreement.

b. The TRANSFEREE may install additional interoperable radio communications, mobile data, GPS, or similar equipment with the approval of the UDC. TRANSFEREE agrees to maintain such additional equipment without cost to UDC.

c. The TRANSFEREE agrees to operate all radio equipment in accordance with the Rules and Regulations of the Federal Communications Commission and the County Tactical Interoperable Communications Plan.

Attachment B

d. UDC shall retain ownership of any equipment it installs. All applications to the Federal Communications Commission seeking authority to add, modify or replace radio equipment covered by this Agreement shall be made by and in the name of the UDC. In compliance with the control requirements of the Communications Act of 1934, as amended, the UDC hereby deputizes the Chief of the fire department of said TRANSFEREE, and such regularly employed and salaried assistants as shall be designated by the Chief of the fire department as his agents to operate said radio equipment as specified in paragraph 14c above.

15. Defense and Indemnification

a. Claims Arising From Sole Acts or Omissions of UDC

UDC hereby agrees to defend and indemnify TRANSFEREE, its agents, officers and employees (hereinafter collectively referred to in this paragraph as 'TRANSFEREE'), from any claim, action or proceeding against TRANSFEREE, arising solely out of the acts or omissions of UDC in the performance of this Agreement. At its sole discretion, TRANSFEREE may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve UDC of any obligation imposed by this Agreement. TRANSFEREE shall notify UDC promptly of any claim, action or proceeding and cooperate fully in the defense.

b. Claims Arising From Sole Acts or Omissions of TRANSFEREE

TRANSFEREE hereby agrees to defend and indemnify the UDC, its agents, officers and employees (hereafter collectively referred to in this paragraph as 'UDC') from any claim, action or proceeding against UDC, arising solely out of the acts or omissions of TRANSFEREE in the performance of this Agreement. At its sole discretion, UDC may participate at its own expense in the defense of any such claim, action or proceeding, but such participation shall not relieve TRANSFEREE of any obligation imposed by this Agreement. UDC shall notify TRANSFEREE promptly of any claim, action or proceeding and cooperate fully in the defense.

c. Claims Arising From Concurrent Acts or Omissions

UDC hereby agrees to defend itself, and TRANSFEREE hereby agrees to defend itself, from any claim, action or proceeding arising out of the concurrent acts or omissions of UDC and TRANSFEREE. In such cases, UDC and TRANSFEREE agree to retain their own legal counsel, bear their own defense costs, and waive their right to seek reimbursement of such costs, except as provided in paragraph e below.

d. Joint Defense

Notwithstanding paragraph c above, in cases where UDC and TRANSFEREE agree in writing to a joint defense, UDC and TRANSFEREE may appoint joint defense counsel to defend the claim, action or proceeding arising out of the concurrent acts or omissions of TRANSFEREE and UDC. Joint defense counsel shall be selected by mutual agreement of UDC and TRANSFEREE. UDC and TRANSFEREE agree to share the costs of such joint defense and any agreed settlement in equal amounts, except as provided in paragraph e below. UDC and TRANSFEREE further agree that neither party may bind the other to a settlement agreement without the written consent of the other party.

e. Reimbursement and/or Reallocation

Where a trial verdict or arbitration award allocates or determines the comparative fault of the parties, the parties may seek reimbursement and/or reallocation of defense costs, settlement payments, judgments and awards, consistent with such comparative fault.

Attachment B

16. Deemed Notice

All notices herein provided to be given, or that may be given by either party to the other shall be deemed to have been fully given when made in writing and deposited in the U.S. mail, registered and postage prepaid and addressed as follows: To the TRANSFEREE at 7853 Central Ave, Lemon Grove, CA 91945 and to the UDC via Director, Office of Emergency Services at 5555 Overland Avenue, Suite 1911, San Diego, CA 92123-1294. The address to which notices shall or may be mailed as aforesaid to either party shall or may be changed by written notice given by such party to the other, as hereinabove provided; but nothing herein contained shall preclude the giving of any such notice by personal service.

17. Amendments

It is mutually understood and agreed that no alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreements not incorporated herein, and no alterations or variations of the terms hereof unless made in writing between the parties hereto shall be binding on any of the parties hereto.

18. UDC Waiver Of Maintenance Requirements

The UDC may in its sole discretion and for such good cause as it determines waive in writing in whole or in part any requirement of this Agreement that the MDU and/or equipment shall be maintained in operating condition, or repaired, or replaced, providing that any such waiver shall be applicable only to the specific apparatus or equipment to which it refers.

19. Termination of Agreement

a. Either party may terminate this Agreement upon 14 days written notice to other party, or TRANSFEREE may relinquish or UDC may repossess any portion of the MDU upon like notice to the other party, except that UDC may repossess any portion thereof without written notice whenever it deems the same is not being maintained in accordance with this Agreement.

b. Upon the termination of this Agreement, TRANSFEREE agrees to return MDU in the same condition as received, reasonable wear and tear, acts of God, and conditions over which he has no control excepted, along with maintenance history discussed in paragraph 2 of this Agreement.

c. As inventory changes occur, or items of equipment are replaced, deleted or added by the UDC or replaced by TRANSFEREE, it is mutually agreed that no amendment to this Agreement need be made at the time of the change; provided however, at the termination of this Agreement a complete reconciliation of all equipment will be made. TRANSFEREE further agrees that all replacements for the MDU will be made with identical or substantially like items.

d. Nothing in this agreement shall be construed to create a new property interest or right of action for the TRANSFEREE.

20. Administration of Agreement

The UDC authorizes the Director, County Office of Emergency Services and such regularly employed and salaried assistants as shall be designated by the Director to execute the provisions and administration of this Agreement.

Attachment B

IN WITNESS WHEREOF, the parties hereto have executed this agreement upon the date first above written.

TRANSFeree:

By _____
Graham Mitchell, City Manager

SAN DIEGO COUNTY UNIFIED DISASTER COUNCIL:

By _____
Chairperson